

Senate File 263 - Introduced

SENATE FILE 263

BY GUTH

(COMPANION TO HF 173 BY SALMON)

A BILL FOR

1 An Act requiring that elective members of the state and
2 district judicial nominating commissions, and the county
3 magistrate nominating commissions, be elected by the
4 registered voters of the state.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 39.19 Judicial nominating
2 commission members.

3 1. There shall be elected, on a nonpartisan basis coincident
4 to each regular city election, the elective members of the
5 state and district judicial nominating commissions.

6 2. Notwithstanding section 49.30, for purposes of
7 administering an election held to elect members of the state
8 or district judicial nominating commissions, the county
9 commissioner of elections may print judicial nominating
10 commission offices on separate ballots.

11 Sec. 2. Section 46.2, Code 2017, is amended to read as
12 follows:

13 **46.2 Election of state judicial nominating commissioners.**

14 ~~The resident members of the bar~~ registered voters of each
15 congressional district shall elect ~~one~~ two eligible elector
16 electors of the district to the state judicial nominating
17 commission for a staggered six-year term ~~beginning July 1~~
18 ~~terms.~~ ~~The terms of no more than three nor less than two of~~
19 ~~the members shall expire within the same two-year period, the~~
20 ~~expiration dates being governed by the expiration dates of the~~
21 ~~terms of the original appointive members. The members of the~~
22 ~~bar of the respective congressional districts shall in January,~~
23 ~~immediately preceding the expiration of the term of a member~~
24 ~~of the commission, elect a successor for a like term. For~~
25 ~~the first elective term open on or after July 1, 1987, in the~~
26 ~~odd-numbered districts the elected member shall be a woman and~~
27 ~~in the even-numbered districts the elected member shall be a~~
28 ~~man. Thereafter, the districts shall alternate between women~~
29 ~~and men elected members~~ The elections for members under this
30 section shall be held coincident to the regular city election.

31 Sec. 3. Section 46.2A, subsections 2 and 3, Code 2017, are
32 amended to read as follows:

33 2. Notwithstanding ~~sections~~ section 46.1 and ~~46.2~~, the
34 terms of the appointed and elected members of the state
35 judicial nominating commission serving on December 31, 2012,

1 shall expire on that date.

2 3. The terms of newly appointed ~~and-elected~~ members of the
3 state judicial nominating commission shall commence on January
4 1, 2013, based upon the number of congressional districts as
5 enacted pursuant to [chapter 42](#).

6 Sec. 4. Section 46.2A, Code 2017, is amended by adding the
7 following new subsections:

8 NEW SUBSECTION. 4A. Notwithstanding section 46.2, the
9 terms of the elected members of the state judicial nominating
10 commission serving on December 31, 2017, shall expire on that
11 date.

12 NEW SUBSECTION. 4B. The terms of newly elected members
13 of the state judicial nominating commission shall commence on
14 January 1, 2018, following the judicial nominating commission
15 election held coincident to the 2017 regular city election.

16 Sec. 5. Section 46.2A, subsections 5 and 6, Code 2017, are
17 amended to read as follows:

18 5. The initial term of the ~~elected~~ members elected pursuant
19 to subsection 4B shall be as follows:

20 a. In the congressional district described as the first
21 district, there shall be one member with a term of two years
22 and one member with a term of four years.

23 b. In the congressional district described as the second
24 district, there shall be one member with a term of four years
25 and one member with a term of six years.

26 c. In the congressional district described as the third
27 district, there shall be one member with a term of two years
28 and one member with a term of six years.

29 d. In the congressional district described as the fourth
30 district, there shall be one member with a term of four years
31 and one member with a term of six years.

32 6. The appointed ~~and-elected~~ members from each
33 congressional district shall be gender balanced as provided in
34 section 69.16A.

35 Sec. 6. Section 46.4, Code 2017, is amended to read as

1 follows:

2 **46.4 Election of district judicial nominating commissioners.**

3 1. The resident members of the bar registered voters of each
 4 judicial election district shall elect five eligible electors
 5 of the district to the district judicial nominating commission.
 6 Commissioners shall be elected to staggered terms of six years
 7 each. The elections shall be held ~~in the month of January~~
 8 coincident to the regular city election for terms commencing
 9 February January 1 of even-numbered years.

10 ~~For terms commencing February 1, 1988, and every six years~~
 11 ~~thereafter, one elected commissioner in each district shall~~
 12 ~~be a woman and one shall be a man. For terms commencing~~
 13 ~~February 1, 1990, and every six years thereafter, one elected~~
 14 ~~commissioner in each district shall be a woman and one shall~~
 15 ~~be a man. For the term commencing February 1, 1992, in~~
 16 ~~the odd-numbered districts the elected commissioner shall~~
 17 ~~be a woman and in the even-numbered districts the elected~~
 18 ~~commissioner shall be a man. For the terms commencing every~~
 19 ~~six years thereafter, the districts shall alternate between~~
 20 ~~women and men elected commissioners.~~

21 2. Five members shall be elected in 2017 to initial terms,
 22 with the two candidates receiving the greatest number of votes
 23 in the district being elected to full six-year terms, the two
 24 candidates receiving the next greatest number of votes being
 25 elected to initial terms of four years, and the candidate
 26 receiving the next greatest number of votes being elected to
 27 an initial term of two years.

28 3. The terms of the elected members of the district judicial
 29 nominating commissions serving on December 31, 2017, shall
 30 expire on that date.

31 Sec. 7. Section 46.5, subsections 2 and 3, Code 2017, are
 32 amended to read as follows:

33 ~~2. Except where the term has less than ninety days~~
 34 ~~remaining, vacancies~~ Vacancies in the office of elective member
 35 of the state judicial nominating commission shall be filled

1 ~~consistent with eligibility requirements by a special election~~
 2 ~~within the congressional district where the vacancy occurs,~~
 3 ~~such election to be conducted as provided in sections 46.9 and~~
 4 ~~46.10 by special election, unless the vacancy occurs less than~~
 5 ~~one hundred eighty days before the end of the term of office.~~
 6 The governor shall order the special election not later than
 7 five days from the date the vacancy exists, giving not less
 8 than forty days' notice of such election. Any special election
 9 called under this subsection must be held on a Tuesday and
 10 shall not be held on the same day as a school election within
 11 the district.

12 3. Vacancies in the office of elective judicial nominating
 13 commissioner of district judicial nominating commissions shall
 14 be filled consistent with eligibility requirements and by
 15 majority vote of the authorized number of elective members of
 16 the particular commission, at a meeting of such members called
 17 in the manner provided in section 46.13. The term of judicial
 18 nominating commissioners so chosen shall commence upon their
 19 selection and continue for the remainder of the unexpired term.

20 Sec. 8. Section 46.5, subsection 5, Code 2017, is amended by
 21 striking the subsection.

22 Sec. 9. Section 46.9, Code 2017, is amended by striking the
 23 section and inserting in lieu thereof the following:

24 **46.9 Conduct of elections.**

25 1. Regular elections called by the state or district
 26 judicial nominating commissions for the election of commission
 27 members under this chapter shall be held on the date of the
 28 regular city election as fixed by section 376.1. The election
 29 notice shall be made a part of the regular city election
 30 notice published as provided in section 49.53 in each judicial
 31 district and the election shall be conducted by the county
 32 commissioner of elections pursuant to chapters 39 through 53
 33 and this chapter.

34 2. Ballots for state and district judicial nominating
 35 commissioners shall be arranged as provided for nonpartisan

1 regular city elections under section 49.31, subsection 3.

2 Sec. 10. Section 46.10, Code 2017, is amended to read as
3 follows:

4 **46.10 Nomination of elective nominating commissioners.**

5 1. In order to have an eligible elector's name printed
6 on the ballot for state or district judicial nominating
7 commissioner, the eligible elector must file in the office
8 of the state ~~court administrator~~ commissioner of elections
9 at least ~~thirty one hundred four~~ thirty days prior to ~~expiration~~
10 ~~of the period within which the election must be held~~ the
11 judicial nominating commission election a nominating petition
12 signed by at least fifty ~~resident members of the bar~~ eligible
13 electors of the congressional district in case of a candidate
14 for state judicial nominating commissioner, or at least
15 ten ~~resident members of the bar~~ eligible electors of the
16 judicial district in case of a candidate for district judicial
17 nominating commissioner. ~~No member of the bar may sign more~~
18 ~~nominating petitions for state or district judicial nominating~~
19 ~~commissioner than there are such commissioners to be elected.~~
20 2. ~~Ballots or electronic voting forms for state and district~~
21 ~~judicial nominating commissioners shall contain blank lines~~
22 ~~equal to the number of such commissioners to be elected, where~~
23 ~~names may be written in.~~

24 2. a. Objections to the legal sufficiency of a nomination
25 petition or to the eligibility of a candidate may be filed by
26 any person who would have the right to vote for a candidate for
27 the office in question.

28 b. The objection must be filed with the state commissioner
29 at least seventy-four days before the day of the election at
30 which members of the commission are elected. When objections
31 are filed, notice shall be given within seventy-two hours by
32 certified mail to the candidate affected, addressed to the
33 candidate's place of residence as given on the candidate's
34 affidavit, stating that objections have been made to the legal
35 sufficiency of the petition or to the eligibility of the

1 candidate, and also stating the time and place the objections
2 will be considered.

3 c. Objections filed under this subsection shall be
4 considered by the secretary of state, auditor of state, and
5 attorney general.

6 Sec. 11. Section 46.11, Code 2017, is amended to read as
7 follows:

8 **46.11 Certification of commissioners.**

9 The governor and the ~~state court administrator~~ commissioners
10 of elections respectively shall promptly certify the names
11 and addresses of appointive and elective judicial nominating
12 commissioners to the state commissioner of elections and the
13 chairperson of the respective nominating commissions.

14 Sec. 12. Section 46.18, Code 2017, is amended to read as
15 follows:

16 **46.18 Eligibility of voters.**

17 Electors entitled to vote at the general election shall be
18 entitled to vote at the judicial election and the state and
19 district judicial nominating commission election. All voting
20 procedures provided by [chapter 53](#) for absent voting by armed
21 forces in general elections shall be applicable to judicial and
22 state and district judicial nominating commission elections.

23 Sec. 13. Section 602.6501, subsection 1, paragraph c, Code
24 2017, is amended to read as follows:

25 c. Two attorneys elected by the ~~attorneys in~~ registered
26 voters of the county, or the lesser number provided in section
27 602.6504, subsection 1.

28 Sec. 14. Section 602.6504, Code 2017, is amended to read as
29 follows:

30 **602.6504 Commissioners elected by attorneys registered**
31 **voters.**

32 1. The ~~resident attorneys~~ registered voters of each county
33 shall elect, on a nonpartisan basis, two resident attorneys
34 of the county to the magistrate appointing commission for
35 six-year terms beginning ~~on January 1, 1979~~ at the state and

1 district judicial nomination commission elections held pursuant
 2 to sections 46.2A and 46.4, and each sixth year thereafter
 3 at the state and district judicial nomination commission
 4 elections. ~~An election shall be held in December preceding the~~
 5 ~~commencement of new terms.~~ The attorneys registered voters
 6 in a county may elect only one commissioner if there is only
 7 one who is qualified and willing to serve and if there are no
 8 resident attorneys in a county or none is willing to serve as a
 9 commissioner, none shall be elected.

10 2. A county attorney shall not be elected to the commission.

11 ~~3. An attorney is eligible to vote in elections of~~
 12 ~~magistrate appointing commissioners within a county if eligible~~
 13 ~~to vote under sections 46.7 and 46.8, and if a resident of the~~
 14 ~~county.~~

15 4. In order to be placed on the ballot for county magistrate
 16 appointing commission, an eligible attorney elector shall
 17 file a nomination petition, signed by at least ten eligible
 18 electors of the county, in the office of the ~~clerk of court on~~
 19 ~~or before November 30 of the year in which the election for~~
 20 ~~attorney positions is to occur~~ county commissioner of elections
 21 at least one hundred four days prior to the judicial nominating
 22 commission election. This subsection does not preclude
 23 write-in votes at the time of the election.

24 5. a. ~~When an a judicial nomination commission election of~~
 25 ~~magistrate appointing commissioners is to be held that requires~~
 26 the election of magistrate appointing commissioners, the ~~clerk~~
 27 ~~of the district court for each county~~ commissioner of elections
 28 shall cause to be mailed to each eligible attorney a ballot
 29 that is in substantially the following form:

30 BALLOT

31 ~~County Magistrate Appointing Commission~~

32 ~~To be cast by the resident members of the bar of~~
 33 ~~..... county.~~

34 ~~Vote for (state number) for county judicial~~
 35 ~~magistrate appointing commissioner(s) for term commencing~~

1
2
3

4 ~~To be counted, this ballot must be completed and mailed or~~
5 ~~delivered to clerk of the district court,, no later~~
6 ~~than December 31, ... (year) (or the appropriate date in~~
7 ~~case of an election to fill a vacancy) include the office of~~
8 magistrate appointing commissioner on the judicial nomination
9 commission ballot.

10 b. An eligible elector may file an objection to the
11 legal sufficiency of a nomination petition with the county
12 commissioner of elections as otherwise provided for in sections
13 44.4 and 44.7.

14 Sec. 15. Section 602.6505, Code 2017, is amended to read as
15 follows:

16 **602.6505 Vacancy.**

17 A vacancy in the office of magistrate appointing
18 commissioner shall be filled for the unexpired term ~~in the~~
19 ~~same manner as the original appointment was made as provided~~
20 in section 69.14A.

21 Sec. 16. Section 602.8102, subsection 14, Code 2017, is
22 amended by striking the subsection.

23 Sec. 17. REPEAL. Sections 46.7, 46.8, and 46.9A, Code 2017,
24 are repealed.

25 EXPLANATION

26 The inclusion of this explanation does not constitute agreement with
27 the explanation's substance by the members of the general assembly.

28 This bill requires that elective members of the state
29 and district judicial nominating commissions be elected to
30 six-year, staggered terms by the registered voters of the
31 state, on a nonpartisan basis. The judicial nominating
32 commission elections are required to be held coincident to the
33 regular city elections, in November of odd-numbered years, but
34 offices for the judicial nominating commission election may be
35 printed on a separate ballot. The elective members on these

1 commissions are currently elected to six-year terms by members
2 of the Iowa bar, as provided under Article V, section 16, of
3 the Iowa Constitution. Article V, section 16, of the Iowa
4 Constitution also, however, provides that the composition and
5 selection of members of commissions may be changed by law.

6 Under the bill, candidates for elective membership on the
7 state judicial nomination commission (state commission) are
8 elected by congressional district and must file a nominating
9 petition with the state commissioner of elections (secretary of
10 state) at least 104 days before the election, the same filing
11 period for judges seeking retention at judicial elections.
12 Such candidates are required to submit nomination petitions
13 with the signatures of at least 50 eligible electors from the
14 congressional district.

15 Under the bill, candidates for elective membership on the
16 district judicial nomination commissions (district commissions)
17 are elected by judicial district and must also file a
18 nominating petition with the state commissioner of elections
19 at least 104 days before the election. Such candidates are
20 required to submit nomination petitions with the signatures of
21 at least 10 eligible electors from the judicial district.

22 For state and district commissions, the bill also allows
23 eligible electors to file objections to nomination petitions in
24 the same manner as provided for objections for candidates for
25 election to the general assembly.

26 Under the bill, candidates for elective membership on
27 the county magistrate appointing commissions are elected by
28 county and must file a nominating petition with the county
29 commissioner of elections at least 104 days before the
30 election. Such candidates are required to submit nomination
31 petitions with the signatures of at least 10 eligible electors
32 from the county. The bill allows eligible electors to file
33 objections to nomination petitions in the same manner as
34 provided for other county officers.

35 The bill requires that vacancies that occur on the state

1 commission are to be filled by special election called by the
2 governor if the vacancy occurs more than 180 days before the
3 end of the term of office. The bill maintains current law
4 for the filling of vacancies for district commissions. Under
5 Article V, section 16, of the Iowa Constitution, a person
6 is prohibited from serving on a state or district judicial
7 nomination commission for more than one term. The bill also
8 provides that a vacancy on a magistrate appointing commission
9 may be filled in the same manner as vacancies for other
10 elective county offices.

11 The bill makes additional conforming changes.